

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD A. HINDS,

Defendant-Appellant.

UNPUBLISHED

March 22, 2005

No. 250668

Crawford Circuit Court

LC No. 02-002047-FC

Before: Saad, P.J., and Smolenski and Cooper, JJ.

SAAD, P.J. (*concurring*).

I agree that defendant's conviction must be reversed because (1) the trial court incorrectly admitted 404(b) evidence and (2) this erroneous admission of evidence is prejudicial, not harmless. I do not agree with the majority's holding regarding the competency of the complainant to testify because I do not regard the trial court's ruling on this point as an abuse of discretion, and the trial court is better positioned to make this determination. Further, because of the majority's reversal and remand on 404(b) grounds, we need not address complainant's competency, which, given the passage of time, is likely to involve different facts on retrial. For the same reasons, we should defer review of the confrontation issue.¹

/s/ Henry William Saad

¹ Were we to address the confrontation issue, we should uphold the trial court's ruling because the trial court is in a much better position to judge the very sensitive factors implicated here and we cannot conclude, on this record, that the trial court misapplied the law to these facts.